

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

JOHN HANCOCK LIFE INSURANCE )  
COMPANY, JOHN HANCOCK VARIABLE )  
LIFE INSURANCE COMPANY, and )  
MANULIFE INSURANCE COMPANY (f/k/a )  
INVESTORS PARTNER LIFE INSURANCE )  
COMPANY), ) CIVIL ACTION NO. 05-11150-DPW  
Plaintiffs, )  
v. )  
ABBOTT LABORATORIES, )  
Defendant, )

## **ABBOTT LABORATORIES' MOTION TO DISMISS**

Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, Defendant Abbott Laboratories (“Abbott”) hereby moves to dismiss with prejudice the claim for relief in Count II of the Supplemental Complaint filed by Plaintiffs John Hancock Life Insurance Company, John Hancock Variable Life Insurance Company, and Manulife Insurance Company (“Hancock”) that “Abbott has breached its obligations to John Hancock under the Agreement . . . by . . . failing to pay John Hancock one-third of the actual, unspent Aggregate Carryover Amount pursuant to Section 3.3(b) of the Agreement.” (Supp. Compl. ¶ 48(h)). Abbott submits that this portion of Count II fails to state a claim upon which relief can be granted, and should therefore be dismissed with prejudice. In support of its Motion, Abbott relies on Abbott Laboratories’ concurrently-filed Memorandum of Law In Support of Its Motion To Dismiss.

Respectfully Submitted,

ABBOTT LABORATORIES

By: /s/ Michael S. D'Orsi  
One of its attorneys

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**LOCAL RULE 7.1 CERTIFICATION**

The undersigned hereby certifies that counsel for Abbott Laboratories has conferred with counsel for Plaintiffs in a good faith effort to resolve or narrow the issues in this Motion.

/s/ Michael S. D'Orsi  
Michael S. D'Orsi

**CERTIFICATE OF SERVICE**

I hereby certify that this document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on July 17, 2006.

Date: July 17, 2006 /s/ Michael S. D'Orsi  
Michael S. D'Orsi

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